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OFFICE OF PETITIONS

In re Application of
Kirstan Vandersluis, et. al.
Application No. 09/992,791
Filed: November 19, 2001
Attorney Docket No. XAW-0103

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 2008, to revive the above-identified application.

The renewed petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with \$270 fee; (2) the petition fee of \$770; and (3) a proper statement of unintentional delay.

Pursuant to 37 CFR 1.26(a) "[t]he Director may refund any fee paid by mistake or in excess of that required." In the present situation, payment of the petition fee was required under 37 CFR 1.137(b)(2) and was neither paid by mistake nor in excess. As such, the requested refund is not appropriate and is refused.

The "REPLY UNDER 35 [sic] CFR 1.113", filed December 17, 2007, was not accompanied by either an appropriate petition and fee for an extension of time or an appropriate authorization to charge necessary fees to a deposit account that is provided for under 37 CFR 1.136(a)(3). No other previously filed paper included an appropriate authorization to charge such necessary fees. 35 U.S.C. 154(b) compensates an applicant for delayed issuance of an original patent caused by the United States Patent and Trademark Office.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2157 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions